

## **REMARKS**

The Examiner's communication dated May 2, 2006 has been received and carefully considered. In conformance with the applicable statutory requirements, this paper constitutes a complete reply and/or a bona fide attempt to advance the application to allowance. Specifically, claims 33, 43, 46, 49-50, 53-55, 57, 62-63 and 71 have been amended; claims 51-52, 56 and 65-66 have been cancelled; and claims 72-78 have been added. In addition, detailed arguments in support of patentability are presented. Reexamination and/or reconsideration of the application as amended are respectfully requested.

### **Summary of the Office Action**

Claims 33 and 50-64 stand rejected under 35 U.S.C. § 112, second paragraph.

Claims 33, 43, 46, 49, 51-57, 60, 62-68 and 71 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ernst et al. (U.S. Patent No. 5,816,759).

Claims 50, 58, 59, 61 and 70 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ernst et al.

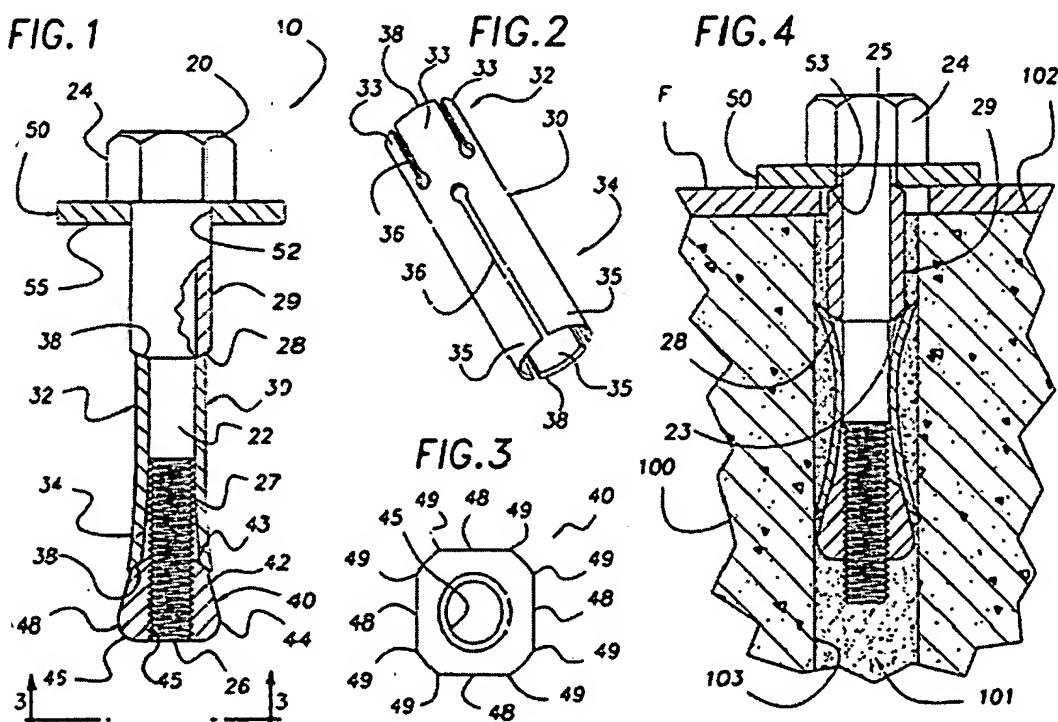
### **35 U.S.C. § 112**

Claims 33 has been carefully amended to overcome the 35 U.S.C. § 112, second paragraph, rejection(s).

### **Primary Reference of Record: Ernst et al.**

U.S. Patent No. 5,816,759 to Ernst et al. is directed to an expansion anchor that is installable in a predrilled hole. The expansion anchor includes an expandable sleeve which is expandable from two ends within, and engagable with a wall portion of, the predrilled hole formed in a base material for retaining the expansion anchor therein. More particularly, with reference to the figures reproduced below, Ernst et al. discloses an expandable anchor 10 including a bolt 20 with an expandable sleeve 30 disposed and retained about a shaft 22 of the bolt by a nut 40. An upper sleeve member 29 is provided between a head 24 of the bolt 20 and the expandable sleeve 30. As shown, the expandable sleeve 30 includes an upper sleeve portion 32 with shorter fingers 33 and a lower sleeve portion 34 with longer fingers 35. According to the '759 patent, the lower

sleeve portion 34 is expandable outwardly before the upper sleeve portion 32 is expandable outwardly for engaging and retaining the expansion anchor 10 in the predrilled hole 101 of a base material 100. See Col. 4, lines 14-21.



Also according to the patent, nut 40 is engagable with the predrilled hole 101 so as to prevent rotation of the nut when the threaded portion 27 of the shaft 22 is engaged with and advanced through the nut 40. See Col. 5, lines 3-7. The diameter of the upper sleeve 29 is required to be large enough so that a gap between the upper sleeve 29 and the wall 103 of the predrilled hole 101 is sufficiently narrowed to prevent the expandable sleeve 30 from merely riding up and over the sleeve 29. See Col. 6, lines 6-10 (emphasis added).

Stated alternatively, the spacing between the outer diameter of the shoulder 28 defined on the upper sleeve 29 and the wall 103 of the predrilled hole 101 must not be so large as to permit the expandable sleeve 30 to move freely therebetween without engaging the wall 103 of the hole 101 during tightening of the bolt 20. See Col. 6, lines 36-42 (*emphasis added*).

### **Summary of Examiner Interview**

With respect to the subject application, Applicant and Applicant's representative appreciate the courtesy Examiner Sunil Singh extended in conducting a telephonic interview on August 22, 2006 with Applicant's representative, the substance of which is incorporated herein. The only reference applied in rejecting the claims; namely, Ernst et al. (discussed above), was discussed, but no exhibits were shown, nor were any demonstrations conducted. Generally, the discussed claims included independent claims 33, 43, 46 and 49.

Concerning independent claim 33, a proposed amendment was suggested calling for the support device of claim 33 to be able to axially move to the expansion member without the first end of the support device engaging the associated bore hole. Concerning claim 43, a proposed amendment was suggested calling for fingers at one end of the shell to be engaged with a rock formation and an opposite end of the shell to not be engaged with the rock formation during axial movement of the shell support from an initial position to the expansion member. Concerning claim 46, a proposed amendment was suggested calling for one end of the expansion shell to be anchored to the rock formation during axial movement of the support device and another end of the expansion shell unable to anchor to the rock formation as a result of any axial movement of the support device. Finally, concerning claim 49, a proposed amendment was suggested calling for a base ring of the shell to be incapable of anchoring to a borehole.

Unfortunately, no agreement was reached concerning the discussed claims. The Examiner did indicate that he still appreciated that there was a patentable distinction between the invention(s) of the subject application and the teachings of Ernst et al. (as he indicated previously during the in-person interview), but it was his position that the claims, at least in the proposed form presented during the telephonic interview, did not patentably define over Ernst et al. The Examiner suggested focusing on any structural differences between the subject application and the anchor 10 of Ernst et al. The Examiner also suggested that focusing on the alternate embodiments (e.g., the shell having a continuous base ring that fractures during installation) could yield some allowable claims.

**The Claims Distinguish Patentably  
Over the Reference(s) of Record**

**Claim 33**, as amended, calls for a support device to be axially disposed on a bolt adjacent a first end of a shell which is also disposed on the bolt. Engagement between the support device and the shell sequentially forces the expansion member into the shell to expand the shell to anchor the bolt in an associated bore hole while the support device remains axially fixed relative to the shell and then only after the bolt is anchored in the associated bore hole allows axial movement of the support device in a direction toward and relative to the shell. Claim 33 further calls for the support device to be able to axially move to the expansion member without the first end of the shell engaging and anchoring in the associated bore hole. Applicant respectfully asserts that Ernst et al. fails to anticipate or render obvious claim 33.

Applicant concedes that Ernst et al. discloses an expandable sleeve 30 including an upper sleeve portion 32 and a lower sleeve portion 34, wherein the lower sleeve portion 34 is expandable outwardly before the upper sleeve portion 32 is expandable outwardly. However, Applicant contests the Examiner's assertion that Ernst et al. discloses the bolt and anchor assembly claimed in claim 33. While the lower sleeve portion 34 (the portion with the longer fingers 35) is indicated as being expandable outwardly before the upper sleeve portion 32 (the portion with the shorter fingers 33), there is simply no teaching or fair suggestion that the sleeve 29 is axially fixed relative to the sleeve 30 while the longer fingers 35 expand outwardly. In other words, it appears that the Ernst et al. anchor 10 will operate with the fingers 35 expanding outwardly at a faster rate than the fingers 33, but Ernst et al. does not teach or fairly suggest a lack of outward expansion by the fingers 33 during the outward expansion of the longer fingers 35. Moreover, and more importantly with respect to claim 33, Ernst et al. in no way teaches or fairly suggests a lack of axial movement by the sleeve 29 relative to the sleeve 30 while the longer fingers 35 expand outwardly. Ernst et al. only states that the longer fingers 35 expand outwardly before the shorter fingers 33.

Simply put, the sequential movement called for in claim 33 is not fairly anticipated by the Ernst et al. reference. Claim 33 calls for a structure wherein the support device remains axially fixed while the shell anchors in a bore hole. There is no teaching or fair suggestion that sleeve 29 remains axially fixed while the lower end 34 having the longer

fingers 35 anchors in the hole 101. Moreover, along the same lines, there is no teaching or fair suggestion in Ernst et al. that a sleeve 29 moves axially only after the alleged shell 30 is anchored in the hole 101. Again, it appears that the sleeve 29 will be moving axially relative to the sleeve 30 immediately, but the lower end 34 (and longer fingers 35) will expand at a faster rate than the upper end 32 (and shorter fingers 33) during such axial movement by the sleeve 29 relative to the sleeve 30.

Still further, it is clear from the Ernst et al. reference that the alleged support device 29 will cause the upper end 32 (i.e., the end with the shorter fingers 33) to engage and anchor in the associated bore hole certainly by the time the sleeve 29 would move to the nut 40. This is in contrast to claim 33 which explicitly requires the support device to be able to axially move to the expansion member without a first end of the shell, the end adjacent the support device, engaging and anchoring in the associated bore hole.

For at least these reasons, Applicant respectfully asserts that claim 33 and claims 53-55, 57-61, 63-64 and 72-74, all of which depend directly or indirectly from claim 33, are in condition for allowance.

Dependent **claim 53**, as amended, calls for the axial movement of the support device to occur only after a predetermined force is applied to the shell by the support device. Again, as already discussed herein, Ernst et al. does not limit axial movement of the support device. Rather, it appears that the alleged support device 29 of Ernst et al. will initially traverse axially relative to the sleeve 30. The only teaching in Ernst et al. relates to the lower sleeve portion 34 expanding outwardly before the upper portion 32 expands outwardly to engage a wall 103 forming bore hole 101. Thus, the lower portion 34 will expand at a greater rate and therefore engage the bore hole wall 103 relative and prior to the upper sleeve portion 32 engaging the bore hole wall. In addition to the foregoing, there is absolutely no teaching or fair suggestion in Ernst et al. of axial movement only occurring after a predetermined force is applied to the alleged shell 30.

Dependent **claim 54** calls for the shell of claims 33 to include a base ring at its first end that is nearly circumferentially continuous and has only a single split to facilitate the first end of the shell being able to partially expand without engaging the bore hole upon application of a sufficient force on a bottom radial end of the base ring by the support device thereby facilitating the axial movement of the support device in the direction toward and relative to the shell and through the base ring. Applicant respectfully submits that the

structure called for in claim 54, particularly with respect to the shell, is not taught or fairly suggested by the Ernst reference. In particular, Ernst et al. fails to teach or fairly suggest a shell having a base ring at a first end thereof that is nearly circumferentially continuous and has a only a single split to facilitate a first end of the shell being able to partially expand without engaging a bore hole.

Dependent **claim 55** calls for the shell of claim 33 to include a radially thickened base ring at its first end having a weakened area that splits an otherwise circumferentially continuous structure and thereby facilitates the axial movement of the support device in the direction toward and relative to the shell to allow the support device to move through the base ring of the shell. Again, Applicant respectfully asserts that the structure called for in claim 55 patentably distinguishes over the structure taught or fairly suggested by Ernst et al. The alleged shell 30 of Ernst et al. simply does not have a radially thickened base ring, nor a radially thickened base ring having a weakened area that splits an otherwise circumferentially continuous structure to facilitate axial movement of the support device.

Dependent **claim 57** calls for a base ring at the first end of the shell to include at least one split that extends to a recess defined between adjacent fingers of the shell and thereby facilitates the axial movement of the support device in the direction toward and relative to the shell to allow the support device to move through the base ring. The structure called for in claim 57 is not found or fairly suggested by the Ernst et al. reference. In particular, Ernst et al. fails to disclose a shell having a base ring that includes at least one split extending to a recess defined between adjacent fingers of the shell. Referring to Figure 2 of Ernst et al., recesses 36 define fingers 33 in the upper sleeve portion 32. However, none of the recesses 36 between the fingers 33 extends to a recess, such as recess 36 between fingers 35, that is defined between adjacent fingers 35 of the alleged shell 30.

Dependent **claim 59** calls for the support device of claim 33 to comprise a threaded lower support threadedly engaged with the elongated bolt and an upper support for reducing the amount of torque transferred to the expansion shell during the installation. Thus, the support device of claim 59 is a two-component support device requiring both a threaded lower support and a separate upper support. In contrast, the alleged support 29 of Ernst et al. is only a single component. In the last Office Action, the Examiner appears to have glossed over the limitations of dependent claim 59 in at least this respect.

In addition, claim 59 does require the threaded lower support to be threadedly engaged with the elongated bolt. The Examiner attempts to address this limitation by taking Official Notice that a support device being threadedly received on a bolt is old and well known, and further indicates that it would have been considered obvious to one of ordinary skill in the art to modify Ernst et al. by making a support device threadedly received on the bolt "since such modification is well known and old and since this facilitate [sic] the installment of the support device." See *Office Action* at pg. 3. Applicant respectfully challenges the motivation provided by the Examiner.

More particularly, the Examiner fails to provide an appropriate motivation to modify the anchor 10 of Ernst et al. and apply the sleeve 29 as a threaded sleeve in threaded engagement with a threaded portion of the Ernst bolt. Merely stating that such threaded engagement would "facilitate the installment of the support device" can hardly be considered an adequate and legally sufficient motivation for one skilled in the art to modify the anchor 10 of Ernst. A *prima facie* case of obviousness is not established absent proper motivation. Simply because threaded engagements are generally known, this is not motivation to use a threaded connection between the sleeve 29 and the bolt 22 in Ernst et al. The MPEP is instructive on this point. Per MPEP §2143.01, "[o]bviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992)." In the present case, Applicant has found no teachings, suggestions or motivation to modify Ernst et al. as suggested by the Examiner in the reference itself. If the Examiner should contend otherwise, Applicant respectfully requests that the Examiner explicitly cite the column and line numbers where such teachings, suggestions or motivation may be found.

According to MPEP §2143.01, the "fact that the claimed invention is within the capabilities of one of ordinary skill in the art is not sufficient by itself to establish *prima facie* obviousness." Merely because claimed elements are individually found in the prior art, it does not necessarily follow that it would be obvious to combine the elements from different prior art references. See, MPEP §2143.01 citing *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993). Consequently, absent a motivation to combine or modify a

reference, it is irrelevant that the elements and/or limitations may be individually or separately known in the prior art. Clearly, the Examiner is motivated to modify Ernst et al. for no other reason than to arrive at the claimed invention. This is a classic example of impermissible hindsight.

For at least the foregoing reasons, Applicant respectfully challenges the obviousness rejection applied against claim 59.

Dependent **claim 60** calls for the expansion shell assembly of claim 33 to further include an antifriction washer adjacent a lower end of the support device for reducing the amount of torque transferred to the expansion shell during installation. This claim does not appear to be addressed by the Examiner in the recent Office Action. The Examiner does indicate that claim 60 is rejected as anticipated by Ernst et al., but provides no detailed treatment of this limitation. Applicant respectfully submits that no such teaching or fair suggestion is found in the Ernst et al. reference and therefore respectfully requests that this rejection be withdrawn.

Dependent **claim 61** calls for at least a portion of the support device of claim 33 to include an antifriction coating to reduce the amount of torque transferred to the expansion shell during installation. Once again, the Examiner takes Official Notice with respect to a claim limitation in the subject application. In particular, with respect to claim 61, the Examiner takes Official Notice that a support having antifriction coating is old and well known in the art. Moreover, the Examiner indicates that it would be considered obvious to one of ordinary skill in the art to modify Ernst et al. by making a support device with an antifriction coating "since this enables the relative movement between the support and shell." However, the Ernst et al. anchor 10 includes sleeve 30 which is to be anchored at both ends thereof within bore hole 101. There is simply no reason why one skilled in the art would be motivated to modify the teachings of Ernst to apply an antifriction coating to the alleged support device 29. Accordingly, Applicant respectfully challenges the Examiner's rejection of claim 61. In particular, Applicant challenges that the Official Notice taken by the Examiner with respect to the antifriction coating and further challenges that the Examiner provide an adequate motivation to show why one skilled in the art would modify Ernst et al. with an antifriction coating as called for in claim 61.

Dependent **claim 63** calls for a support device to be unthreaded and slidably received on a bolt between a shoulder of the bolt spaced from a head of the bolt and a

distal end of the bolt inserted into the associated bore hole. The Ernst et al. reference fails to disclose the sleeve 29 being positioned between a shoulder of the bolt 22 that is spaced from the head 24 and a distal end 26 of the bolt.

Dependent **claim 64** calls for the support device to be formed integrally with the elongated bolt. In rejecting claim 64 in the most recent Office Action, the Examiner has failed to address this limitation of dependent claim 64. Accordingly, Applicant respectfully requests that the rejection applied against claim 64 be withdrawn.

New dependent **claim 72** calls for the shell of claim 33 to include a base ring at a first end thereof that fractures upon application of a sufficient force by the support device to facilitate the axial movement of the support device. Applicant respectfully asserts that there is no fracturing taught or fairly suggested by the Ernst et al. reference.

New dependent **claim 73** calls for a shell to have a base ring for engaging the support device and fingers for engaging the expansion member when a base ring of the shell engages a tapered portion of the support device while the fingers of the shell are expanded by the expansion member and engages a straight portion of the support device after the fingers have been expanded and while the bolt is tensioned. There is no teaching or fair suggestion in Ernst et al. of a straight portion of sleeve 29 being engaged by a base ring of the alleged shell 30.

New dependent **claim 74** calls for the support device to include a transition radius portion between a tapered portion and a straight portion of the support device. There is no such transition radius portion taught or fairly suggested with respect to the sleeve 30 in Ernst et al. Claim 74 further calls for an inner wall of the support device to define an aperture through which a bolt is received that engages the tapered portion while the base ring is expanded and engages the straight portion thereafter while the support device axially moves into the shell. Again, Ernst et al. fails to disclose these limitations.

Independent **claim 43** calls for an expansion shell having fingers only at one end for engaging a rock formation and an aperture for receiving the elongated bolt. Applicant respectfully asserts that the alleged shell 30 of Ernst et al. includes fingers 33 and fingers 35, which are disposed at opposite ends of the sleeve 30 (i.e., both ends). Thus, the alleged shell 30 of Ernst et al. does not have fingers only at one end for engaging a rock formation as required by claim 43.

Still further, claim 43 calls for the fingers at the one end to be engaged with the rock formation and the opposite end of the shell not to be engaged with the rock formation during any and all axial movement that tensions the roof bolt. In contrast, in Ernst et al., both sets of fingers 33,35 engage the rock formation 103 forming bore hole 101. In other words, fingers 33 are engaged to the rock formation and, perhaps more importantly, are engaged to the rock formation during much of the axial movement of the sleeve 29 relative to the sleeve 30 and thus cannot be said to be "not engaged with the rock formation during any and all axial movement that tensions the roof bolt."

Accordingly, it is respectfully submitted that claim 43 and claim 70, which is dependent therefrom, are in condition for allowance.

Dependent **claim 70** calls for the shell support of claim 43 to be threadedly engaged with the elongated bolt. As already argued herein, Applicant respectfully submits that the motivation provided by the Examiner is inadequate. More particularly, the Examiner's motivation to threadedly apply the support device 30 to the bolt 22 in Ernst et al. is simply to "facilitate the installment of the support device." This appears to be a hollow motivation to modify the teachings of Ernst et al. Still further, it is questionable whether such a modification would allow the Ernst anchor 10 to even function.

Independent method **claim 46** calls for further rotating a mine roof bolt, after a step of rotating the mine roof bolt to anchor an expansion shell assembly in a drilled hole, to significantly tension the mine roof bolt with a support device axially moving into an expansion shell of the expansion shell assembly. Moreover, claim 46 calls for one end of the expansion shell to be anchored in a rock formation during axial movement of the support device and the other end of the expansion shell to ride up and over the support member without anchoring to the rock formation as the support device axially moves through the expansion shell to the expansion member.

First, Applicant respectfully submits that no significant tensioning occurs during installation of the Ernst et al. anchor 10. As the Examiner has previously pointed out, there may be some relatively small and insignificant tensioning of the bolt 22 between the anchoring of the lower fingers 35 and just prior to the anchoring of the upper fingers 33. It is Applicant's position that such tensioning would be so minor and insignificant that it could not be said to be significant tensioning. Accordingly, Applicant respectfully submits that

Ernst et al. fails to disclose a method wherein further rotation of a mine roof bolt significantly tensions the mine roof bolt.

Moreover, Applicant respectfully submits that Ernst et al. fails to disclose a method wherein one end of an expansion shell is anchored to a rock formation during axial movement of a support device and the other end of the expansion shell "rides up and over the support member without anchoring to the rock formation." Ernst explicitly teaches the opposite. More particularly, with reference to Col. 6, lines 6-10, Ernst teaches that the sleeve 30 is to be prevented from merely riding up and over the alleged support device 29.

Thus, Applicant respectfully submits that Ernst et al. fails to disclose or fairly suggest a method wherein one end of an expansion shell is anchored to a rock formation during axial movement of a support device and another end of the expansion shell rides up and over the support member without anchoring to the rock formation.

Still further, Applicant respectfully submits that Ernst et al. fails to disclose a second end of an expansion shell not anchoring as a support device axially moves through the expansion shell to the expansion member. With particular reference to Figure 4 of Ernst et al., should the alleged support device 29 move to the nut 40, there could be no doubt that the fingers 33 of the alleged support device 30 would anchor. Thus, Ernst et al. cannot anticipate claim 46.

For at least the foregoing reasons, Applicant respectfully submits that claim 46 and claims 62, 67-68 and 75-77, which are all dependent from claim 46, are in condition for allowance.

**Dependent claim 62** adds the steps of positioning the support device on an unthreaded position of the roof bolt between a threaded portion of the roof bolt and a shoulder of the roof bolt and subsequently rolling threads on the threaded portion of the roof bolt to generally restrict axial movement of the support device. Applicant submits that there is no teaching or fair suggestion of these additional method steps in Ernst et al.

**Dependent claim 67** calls for the step of method claim 46 concerning rotation of the mine roof bolt to anchor the expansion shell assembly in a drilled hole, which occurs prior to the step of further rotating the mine roof bolt, to include a substep of forcing all fingers of the expansion shell to move radially outwardly to grip the rock formation. Applicant submits that all of the fingers of the alleged shell 30 will not move out during a step of rotating the alleged bolt 20 to anchor the assembly 10 in a drilled hole with the alleged

support device 29 being axially fixed relative to the alleged shell 30. As acknowledged by the Examiner, axial movement of the sleeve 29 relative to the sleeve 30 will cause fingers 33 to move radial outwardly. Since this occurs during axial movement of the sleeve 29 relative to the sleeve 30, it cannot be said that all fingers of the sleeve 30 are moved radially outwardly while the sleeve 29 is axially fixed relative to the sleeve 30.

New dependent **claim 75** calls for the method of claim 46 to comprise further steps including: inserting the resin cartridge into the hole prior to inserting the expansion shell assembly into the hole, rupturing the resin cartridge to release resin within the hole, and agitating the released resin within the hole prior to allowing the resin to set. Applicant respectfully submits that these additional steps are neither taught nor fairly suggested by Ernst et al.

New dependent **claim 76** calls for significant tensioning to begin occurring when rotation of the mine roof bolt causes the support member to provide a sufficient force to radially expand the expansion shell enough to permit axial movement of the support member within a base ring of the expansion shell and continues as the support member moves into and through the base ring. As already discussed herein, Applicant respectfully submits that the Ernst et al. reference fails to disclose or fairly suggest significant tensioning occurring within the bolt 22.

New dependent **claim 77** calls for tensioning to occur within the method of claim 46 when rotation of the mine roof bolt causes the support device to provide a sufficient force to fracture the expansion shell to permit axial movement of the support device within the expansion shell. As already discussed herein, there is no disclosure or fair suggestion of any fracturing occurring with respect to the sleeve 30 as the sleeve 29 is forced thereagainst.

Independent **claim 49** calls for engagement between a base ring of a shell and a support device to allow axial movement of the support device into and through the base ring of the shell to significantly and properly tension an associated bolt after fingers of the shell are expanded by the expansion member. As discussed above, Applicant respectfully submits that there is no significant tensioning within the bolt 22 of the Ernst et al. reference. Moreover, Applicant respectfully submits that the double-ended anchoring sleeve 30 of Ernst et al. cannot possibly be used to significantly and properly tension a mine roof bolt, such as the mine roof bolt of claim 49.

Still further, claim 49 calls for the fingers of the shell to be anchored to a bore hole into which the expansion shell assembly is inserted and the base ring at one end of the shell to be incapable of anchoring to the bore hole as a result of the support device moving into and through the base ring. In other words, the base ring of the shell of claim 49 is not capable of anchoring to a bore hole. In contrast, any alleged base ring of the sleeve 30 in Ernst et al. is capable of and is disclosed as anchoring within bore hole 101.

Accordingly, Applicant respectfully submits that claim 49 and dependent claim 71 are in condition for allowance.

New dependent **claim 71** calls for the base ring to have an outer diameter small enough relative to the bore hole such that engagement between the base ring and the support device allows axial movement of the support device into and through the base ring with the shell riding upward over the support device. As already discussed, Ernst et al. is concerned with preventing the sleeve 30 from simply riding upward over the alleged support device 29. Thus, the Ernst et al. structure is specifically disclosed as preventing this action from occurring (i.e., the diameter of sleeve 29 is required per Ernst et al. to have a diameter large enough relative to wall 103 to prevent the sleeve 30 from merely riding up and over the sleeve 29). Accordingly, Ernst et al. fails to disclose and teaches away from the base ring claimed in claim 71 and from any engagement between a base ring and a support device allowing axial movement of the support device into and through the base ring with the shell riding upward over the support device.

New dependent **claim 78** calls for the base ring of the shell to have an outside diameter larger than an adjacent portion of the shell and fingers of the shell to each include a plurality of tapered gripping teeth. It is respectfully asserted that these limitations are neither taught nor fairly suggested by Ernst et al.

Independent **claim 50** calls for a bolt and anchor assembly including a support device threadedly received on an associated bolt. The Examiner has already acknowledged that Ernst et al. fails to disclose a support device threadedly received on a bolt. However, in the most recent Office Action, the Examiner indicated (as already discussed herein) that it is his position that he can take Official Notice that the support device being threadedly received on a bolt is old and well known and therefore considers it obvious to one of ordinary skill in the art to modify Ernst et al. by making the alleged

support device 29 threadedly received on the bolt 22 "since such modification is well known and old and since this facilitate [sic] the installment of the support device."

As discussed already, Applicant challenges the Examiner's statement that one skilled in the art would be motivated to modify Ernst et al. simply because it would "facilitate the installment of the support device." First, the Examiner has not shown why such modification would facilitate installment of the support device 29 of Ernst et al. Second, merely indicating that such an improvement would "facilitate installment" is an inadequate motivation for modifying Ernst et al. reference. The Examiner appears to be using improper hindsight reasoning to support this obviousness contention.

For at least these reasons, it is respectfully submitted that claim 50 patentably defines over the references of record.

## CONCLUSION

All formal and informal matters having been addressed, it is respectfully submitted that this application is in condition for allowance. It is believed that the claim changes and/or arguments supporting patentability clearly place the application in condition for allowance, defining over any fair teaching attributable to the references of record. Alternatively, if the Examiner is of the view that the application is not in clear condition for allowance, it is requested that the Examiner telephone the undersigned for purposes of conducting a telephone interview to resolve any outstanding differences. Accordingly, an early notice of allowance is earnestly solicited.

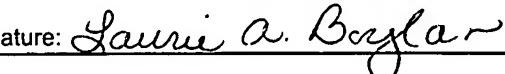
Respectfully submitted,

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